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T29668

Submission of Federal Rules Under the Congressional Review Act

☐ President of the Senate

☒ Speaker of the House of Representatives

☐ GAO

Please fill the circles electronically or with black pen or #2 pencil.

1. Name of Department or Agency

Department of Defense

2. Subdivision or Office

OUSD(AT&L)DPAP(DAR)

3. Rule Title

Written Assurance of Technical Data Conformity

4. Rule Identification Number (RIN) or Other Unique Identifier (if applicable)
DFARS Case 2003-D104

5. Major Rule ☐ Non-major Rule ☒

6. Final Rule ☐ Other ☒ Interim Rule

7. With respect to this rule, did your agency solicit public comments? Yes ☐ No ☒ N/A ☐

8. Priority of Regulation (fill in one)

☒ Economically Significant; or
Significant; or
Substantive, Nonsignificant

☐ Routine and Frequent or
Informational/Administrative/Other
(Do not complete the other side of this form
if filled in above.)

9. Effective Date (if applicable) June 8, 2004 (estimated)

10. Concise Summary of Rule (fill in one or both) attached ☒ stated in rule ☐

Submitted by: Deidre A. Lee (signature)

JUN 02 2004

Name: Deidre A. Lee

Title: Director, Defense Procurement and Acquisition Policy

For Congressional Use Only:

Date Received: _____

Committee of Jurisdiction: _____

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JUN 23 PM 1:19
STARKER'S ROOMS
U.S. HOUSE OF REPS.

	Yes	No	N/A
A. With respect to this rule, did your agency prepare an analysis of costs and benefits?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
B. With respect to this rule, at the final rulemaking stage, did your agency			
1. certify that the rule would not have a significant impact on a substantial number of small entities under 5 U.S.C. § 605(b)?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
2. prepare a final Regulatory Flexibility Analysis under 5 U.S.C. § 604(a)?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
C. With respect to this rule, did your agency prepare a written statement under § 202 of the Unfunded Mandates Reform Act of 1995?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
D. With respect to this rule, did your agency prepare an Environmental Assessment or an Environmental Impact Statement under the National Environmental Policy Act (NEPA)?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
E. Does this rule contain a collection of information requiring OMB approval under the Paperwork Reduction Act of 1995?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
F. Did you discuss any of the following in the preamble to this rule?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
• E.O. 12612, Federalism	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
• E.O. 12630, Government Actions and Interference with Constitutionally Protected Property Rights	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
• E.O. 12866, Regulatory Planning and Review	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
• E.O. 12875, Enhancing the Intergovernmental Partnership	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
• E.O. 12988, Civil Justice Reform	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
• E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
• Other statutes or executive orders discussed in the preamble concerning the rulemaking process (please specify)			

(Billing Code 5001-08-P)

DEPARTMENT OF DEFENSE

48 CFR Parts 227 and 252

[DFARS Case 2003-D104]

Defense Federal Acquisition Regulation Supplement;

Written Assurance of Technical Data Conformity

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 844 of the National Defense Authorization Act for Fiscal Year 2004. Section 844 eliminates the requirement for a contractor to furnish written assurance that technical data delivered to the Government is complete and accurate and satisfies the requirements of the contract.

DATES: Effective date: [Date of publication in Federal Register].

Comment date: Comments on the interim rule should be submitted to the address shown below on or before [60 days after date of publication], to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2003-D104, using any of the following methods:

- o Federal eRulemaking Portal: <http://www.regulations.gov>.

Follow the instructions for submitting comments.

- o Defense Acquisition Regulations Web Site:

<http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. Follow the instructions for submitting comments.

- o E-mail: dfars@osd.mil. Include DFARS Case 2003-D104 in the subject line of the message.

- o Fax: (703) 602-0350.

- o Mail: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062.

- o Hand Delivery/Courier: Defense Acquisition Regulations Council, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202-3402.

All comments received will be posted to
<http://emissary.acq.osd.mil/dar/dfars.nsf>.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602-0328.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule amends DFARS Subpart 227.71 and removes the clause at DFARS 252.227-7036, Declaration of Technical Data Conformity, to implement Section 844 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136). Section 844 amended 10 U.S.C. 2320(b) to eliminate the requirement for contractors to furnish written assurance that delivered technical data is complete and accurate and satisfies the requirements of the contract. This change reduces paperwork

for contractors, but does not diminish the contractor's obligation to provide technical data that is complete and adequate, and that complies with contract requirements.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because elimination of the requirement for a contractor to provide a written declaration of technical data conformity does not diminish the contractor's obligation to provide technical data that is complete and accurate and satisfies contract requirements. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003-D104.

C. Paperwork Reduction Act

The information collection requirements of the clause at DFARS 252.227-7036, Declaration of Technical Data Conformity, are currently approved under Office of Management and Budget Control Number 0704-0369. Elimination of this clause will reduce estimated annual public reporting burden by 126,886 hours

2. Section 227.7103-6 is amended as follows:

- a. In paragraph (e)(2) by adding "and" after the semicolon;
- b. By removing paragraph (e)(3); and
- c. By redesignating paragraph (e)(4) as paragraph (e)(3).

227.7103-14 [Amended]

3. Section 227.7103-14 is amended as follows:

- a. By removing paragraph (a)(1); and
- c. By redesignating paragraphs (a)(2) and (3) as paragraphs (a)(1) and (2), respectively.

227.7104 [Amended]

4. Section 227.7104 is amended as follows:

- a. In paragraph (e)(4) by adding "and" after the semicolon;
- b. By removing paragraph (e)(5); and
- c. By redesignating paragraph (e)(6) as paragraph (e)(5).

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.227-7036 [Removed and Reserved]

5. Section 252.227-7036 is removed and reserved.